IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

OP.No. 18360 of 2002(I)

PETITIONER:

M/S. MELAYIL FISHERIES CORPORATION,
H.P. DEALERS, THRIKKADAVUR, PERINADU,
KOLLAM, REPRESENTED BY ITS MANAGING PARTNER
MR. ANIL ALBIN.

BY ADV. SRI.C.G.SUNIL
SMT.E.V.MOLY
SRI.SAJI MATHEW

RESPONDENTS:
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1. HINDUSTAN PETROLEUM CORPORATION LTD.,
TATAPURAM P.O., P.B.NO.1602, COCHIN-14.

2. KERALA STATE CO-OPERATIVE BANK LTD.,
M.G. ROAD, ERNAKULAM BRANCH, COCHIN-11.

3. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT CO-OPERATIVE AFFAIRS,
SECRETARIAT, TRIVANDRUM.

4. UNION OF INDIA, SECRETARY,
MINISTRY OF PETROLEUM.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.A.K.JAYASANKAR NAMBIAR
SRI.NAGARAJ NARAYANAN,SC,K.S.CO-OP BANK

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.31330 & 56966/2002 IN O.P.NO.18360/2002

DISMISSED.

2-4-2007 SD/- KURIAN JOSEPH, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE MEMORANDUM OF AGREEMENT DATED 29-12-98 ENTERED INTO BETWEEN THE PETITIONER AND 1ST RESPONDENT.

EXT.P2. TRUE COPY OF LETTER DT. 12-6-2002 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P3. TRUE COPY OF LETTER DT. 27-6-2002 ISSUED ON BEHALF OF THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P4. TRUE COPY OF THE ORDER FOR DELIVERY OF PETROLEUM PRODUCTS DT. 29-6-2002 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P5. TRUE COPY OF THE DEMAND DRAFT NOS.-085271, 085272 & 0395758 DATED 01-07-02 DRAWN IN FAVOUR OF THE 1ST RESPONDENT.

/ TRUE COPY /

KURIAN JOSEPH, J.

O.P.Nos.18360 of 2002

Dated this the 2nd day of April, 2007

JUDGMENT

Petitioner is a licensed dealer of petroleum products under the first respondent. The Bank accounts were being operated with the second respondent Kerala State Co-operative Bank Ltd. Petitioner is aggrieved by Ext.P2 communication which states as follows:-

> "We hereby wish to inform you that we have been advised by our Zonal Office vide letter dt. June 3, 2002 not to accept any instruments drawn on Co-operative banks including D/Ds for transactions with the Corporation, with immediate effect.
>
> Hence you are hereby requested to remit payments vide instruments drawn on SCHEDULED BANKS only."

The second respondent, though a Co-operative Bank, is also a Scheduled Bank. It is one of the Banks included in the Second Schedule to the Reserve Bank of India Act, 1934 with effect from 2-7-1966. Therefore, there is no justification in refusing to entertain the negotiable instruments drawn on the second respondent Kerala State Co-operative Bank, which is a Scheduled Bank. In that view of the

matter it is not necessary to go into the larger question as to whether the first respondent is justified in not entertaining the negotiable instruments drawn on the Co-operative Banks. The said question is left open and the writ petition is allowed declaring that Ext.P2 communication shall not bind the petitioner since the petitioner is having the transactions through the second respondent Bank, which is a Scheduled Bank.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.No.18360/2002

JUDGMENT

2nd April, 2007